

## **Title 13 PUBLIC SERVICES**

### **Chapter 13.1 SEWER SERVICE SYSTEM**

#### **Article I. In General**

##### **13.1.1.1 Definitions and Abbreviations.**

###### **13.1.1.1.1 Terms Defined.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter are as follows:

**BOD** (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty (20) degrees C, expressed in milligrams per liter.

**Building drain** means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

**Building sewer** means the extension from the building drain to the public sewer or other place of disposal.

**Combined sewer** means a sewer receiving both surface runoff and sewage.

**Developer** means any person or persons who undertake to construct simultaneously or in planned sequence more than one housing unit on a given tract or land subdivision.

**Easement** means an acquired legal right for the specific use of land owned by others.

**Engineer** means the professional engineer retained as Town engineer by the Town Council.

**Floatable oil** means oil, fat or grease in physical state such as that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater is considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

**Garbage** means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

**Industrial wastes** means the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

**Natural outlet** means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**pH** means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**Pollutants** include, but are not limited to, dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological, or radiological materials, oil, petroleum products or by-products, heat-wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, domestic, commercial or agricultural waste of any kind.

**Properly shredded garbage** means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

**Public sewer** means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**Sanitary sewer** means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**Sewage** means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

**Sewage treatment plant** means any arrangement of devices and structures used for treating sewage.

**Sewage works** means all facilities for collecting, pumping, treating and disposing of sewage.

**Sewer** means a pipe or conduit for carrying sewage.

**Slug** means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than fifteen (15) minutes, more than five times the average twenty-four (24) hour concentration or flows during normal operation.

**Storm drain** (sometimes termed “storm sewer”) means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

**Superintendent** means the Superintendent of sewage services and/or of water pollution control of the Town.

**Suspended solids** means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and referred to as nonfilterable residue.

**Unpolluted water** means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

**Wastewater** means the spent water of a community from the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface and stormwaters as may be present.

**Wastewater facilities** means the structures, equipment and processes required to collect, carry away and treat domestic and industrial waste and dispose of the effluent.

**Wastewater treatment works** means an arrangement of devices and structures for treating wastewater, industrial waste and sludge.

**Watercourse** means a natural or artificial channel for the passage of water either continuously or intermittently.

#### **13.1.1.1.2 Abbreviations.**

For the purpose of this chapter, the following abbreviations have the meanings ascribed to them under this subsection. References to standards of the following organizations refer to the latest edition of same.

**ANSI** means American National Standards Institute.

**ASCE** means American Society of Civil Engineers.

**ASME** means American Society of Mechanical Engineers.

**ASTM** means American Society for Testing and Materials.

**cm** means centimeter.

**CS** means Commercial Standards.

**Degrees C** means degrees Celsius.

**Degrees F** means degrees Fahrenheit.

**DEP** means Maine Department of Environmental Protection.

**EPA** means United States Environmental Protection Agency.

**ICR** means industrial cost recovery.

**kg** means kilogram.

**l** means liter.

**m** means meter.

**mg/l** means milligrams per liter.

**NEIWPCC** means New England Interstate Wastewater Pollution Control Commission.

**NPC** means National Plumbing Code.

**ppm** means parts per million.

**Sq. m.** means square meter.

**WPCF** means Water Pollution Control Federation.

#### **13.1.1.2 Penalty—Violator’s Liability—Additional Remedies.**

A. Any person found to be violating any of the provisions of this chapter except §13.1.1.9 is to be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender must, within the period of time stated in such notice, permanently cease all violations. A person who violates any provision of this Chapter is subject to penalties set forth in Town Code Title 1, Chapter 1.3, Enforcement, Penalty, Nuisance and Fees.

B. Any person who continues any such violation beyond the time limit specified in the notice, is guilty of a misdemeanor, and on conviction thereof is to be fined in the amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any such violation continues is deemed a separate offense.

C. Any person violating any of the provisions of this chapter is liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

D. The Town Council, in addition to other remedies, may institute any appropriate action or proceedings including an injunction to prevent such unlawful use, construction or maintenance of cesspools, septic tanks, sewage disposal systems, pipes or drains, to restrain, correct or abate such violation and to prevent the occupancy of any building structure or land where said violations of this chapter are found.

#### **13.1.1.3 Authority to Enter Properties to Make Inspections, etc.—Limited Authority of Inquiry.**

A. The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification may be permitted to enter all properties on consent of the owner or occupant thereof for the purposes of inspection, observation, measurements, sampling and testing in accordance with the provisions of this chapter.

B. The Superintendent has no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for waste treatment.

C. The Superintendent or other duly authorized employees of the Town are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to wastewater facilities. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

**13.1.1.4 Liability for Injuries, Damages Resulting from Inspections, etc.**

While performing the necessary work on private properties, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company, and the company is held for injury or death to the Town employees, and the Town must indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required.

**13.1.1.5 Authority to Enter Easement for Inspection, etc.—Terms of Easement Govern.**

The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification may be permitted to enter all private properties upon consent of the owner or occupant thereof through which the Town holds a duly negotiated easement for the purposes of, but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entries and subsequent work, if any, on such easement, must be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**13.1.1.6 Maintenance Responsibility of Sewer Department.**

The department is responsible for the upkeep and maintenance of the main or common sewer line only.

**13.1.1.7 Rates and Charges.**

A. The Town Council shall establish such rates as they deem necessary for the maintenance, operation, repair and improvements to the system. Such rates may be changed from time to time as they deem necessary. The user charge and appropriate cost recovery system as set out in Appendix A is to be established in accordance with appropriate federal and state laws, rules and regulations.

B. Sewer charges levied pursuant to this chapter not paid by July 1st of the following year are to be certified to the Treasurer of the Town who is to place the same on the real property tax bill for that year with interest and penalties allowed by law, and are collected as other Town taxes are collected.

C. An interest charge at the same rate as established by the Town Council for uncollected taxes will be made on all bills not paid within ninety (90) days after date of billing.

D. A special sewer service charge is to be established for any industrial firm or organization who, by virtue of the volume, strength or unusual characteristic of their waste alone, would overload or upset the capacity or efficiency of the sewage works or any part thereof if such waste entered the public sewer, or whose waste disposal situation is such that it would be in the public interest to waive the basic requirements. The Town Council, after appropriate study, and advice from the engineer, shall establish a special sewer service charge to the industrial firm by

separate agreement with said firm. The applicable portions of the preceding sections, as well as the equitable rights of the public are the basis for such an arrangement.

E. Rates for nonmeter residential customers are to be as set forth in Town Code Appendix A, or the owner may install an approved meter at owner expense.

F. Sewer user rate charges in accordance with this section will begin ninety (90) days after notification by Town of the availability of the public sewer to serve parcels and remain in force whether or not the premises are occupied. Parcels not connected to the system are not liable for Quarterly Usage charges.

**13.1.1.8 Basis for Decisions of Superintendent.**

In making decisions authorized pursuant to the terms of this chapter, the Superintendent shall consider the effect of any proposed action or inaction upon the public health, safety or welfare and the effects of such proposed action or inaction upon the sewer works, processes, equipment and receiving waters.

**13.1.1.9 Damaging, Tampering with Equipment, etc., Prohibited.**

No person may maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person violating this provision is subject to arrest under charge of criminal mischief as set forth in Title 17-A, M.R.S. Chapter 33, §8060.

**13.1.1.10 Liability for Damage Caused by Excavation Work.**

Any person doing excavation work near any mains owned by the department is responsible for any damage to such mains as a result of the negligence of such person, the person's agents, employees, or servants and is liable for all costs involved in repairing or replacing such damaged pipes.

**13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.**

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so. Pursuant to Town Code Title 16, Chapter 8, Article VII, Sewage Disposal, connection to public sewer is required for a commercial or industrial development or a residential subdivision, where public sewer, within an abutting public way, is within one thousand (1,000) feet of the property line as measured along said public way.

B. If an owner can demonstrate to the Town Manager diligent effort in arranging the connection, but is unable to meet the 90-day connection deadline due to force majeure circumstances, the Town Manager may grant an extension and waive the penalties of Town Code Title 1, Chapter 1.3, Enforcement, Penalty, Nuisance and Fees.

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

D. Owners of properties with a septic tank and leach field system installed within twenty (20) years of any main extension project completion date may request deferral of connection until the system has reached the twenty-years after installation anniversary.

## **Article II. Dangerous and Harmful Wastes**

### **13.1.2.1 Effect on Special Agreements for Discharge.**

No statement contained in this article may be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor, by the industrial concern.

### **13.1.2.2 Tests and Analyses.**

A. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter are to be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and are to be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole is considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

B. Sampling is to be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.

C. All industries discharging into a public sewer must perform such monitoring of their discharge as the Superintendent and/or other duly authorized employees of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records are to be made available upon request by the Superintendent to other agencies having jurisdiction over discharges to the receiving waters.

**13.1.2.3 Discharge of Unpolluted Drainage into Sanitary Sewer.**

No person may discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer without the consent of the Superintendent.

**13.1.2.4 Required Discharge of Unpolluted Drainage.**

Stormwater and all other unpolluted drainage is to be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

**13.1.2.5 Discharge of Specific Waters, Wastes into Public Sewers Prohibited.**

No person may discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- B. Any waters or pollutants containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant;
- C. Any waters or pollutants having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works;
- D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**13.1.2.6 Superintendent's Authority Regarding Acceptance of Harmful Wastes.**

A. If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 13.1.2.5, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- 1. Reject the waters or pollutants;
- 2. Require pretreatment to an acceptable condition for discharge to the public sewers; and/or
- 3. Require control over the quantities and rates of discharge; and/or
- 4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 13.1.2.1.

5. When considering the above alternatives the Superintendent must give consideration to the economic impact of the last alternative on the discharge.

B. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment is to be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, regulations, laws and municipal waste discharge permit (NPDES).

C. The Superintendent may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements include:

1. Wastewater discharge peak rate and volume over a specific time period;
2. Chemical analysis of the wastewater;
3. Information on raw materials, processes and products affecting wastewater volume and quality;
4. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;
5. A plot plan of the user's property showing sewers and pretreatment facility locations; and
6. Details of systems to prevent and control losses of materials through spills to the municipal sewer.

D. The Town will develop and the Superintendent will enforce pretreatment regulations for existing and new sources of pollution that are discharged into the municipally owned wastewater treatment facilities as set forth in Title 40, Chapter 1, Part 128 and Part 403 of the final rules of the United States Environmental Protection Agency.

#### **13.1.2.7 Interceptors Required When—Type, Location.**

A. Grease, oil and sand interceptors are to be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors may not be required for private living quarters or dwelling units. All interceptors are to be of a type and capacity approved by the Superintendent and located as to be readily and easily accessible for cleaning and inspection.

B. In maintaining these interceptors; the owner(s) are responsible for the proper removal and disposal by appropriate means of the captured material and must maintain records of the dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

#### **13.1.2.8 Maintenance of Treatment, Flow-equalizing Facilities—Cost.**

Where pretreatment or flow-equalizing facilities are provided for any waters or wastes, they must be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

#### **13.1.2.9 Manholes.**

A. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes must install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.



B. Such structure, when required, must be accessibly and safety located, and constructed in accordance with plans approved by the Superintendent. The structure must be installed by the owner at the owner's expense, and maintained by such owner so as to be safe and accessible at all times.

**13.1.2.10 Specific Harmful Discharges Enumerated.**

No person may discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

- A. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (sixty-five (65) degrees C);
- B. Any water or pollutants containing fats, wax, grease or floatable oils;
- C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarter horsepower (0.76 hp metric) or greater is subject to the review and approval of the Superintendent;
- D. Any waters or pollutants containing strong acid iron pickling pollutants or concentrated plating solutions whether neutralized or not;
- E. Any waters or pollutants containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or pollutants exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials;
- F. Any waters or pollutants containing phenols or other taste-or-odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage to meet the requirements of the state, federal or other public agencies or jurisdiction for such discharge to the receiving waters;
- G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state and federal regulations;
- H. Any waters or wastes having a pH in excess of 9.5;
- I. Materials which exert or cause:
  - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate),
  - 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions),
  - 3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works,
  - 4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in Section 13.1.1.1;

J. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

K. Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable cutting oils or product mineral oil origin.

### **Article III. Building Sewers and Connections**

#### **13.1.3.1 Permit Required.**

No unauthorized person may uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system must notify the Superintendent at least forty-five (45) days prior to the proposed change or connection.

#### **13.1.3.2 Permit Classes—Application—Fee.**

A. There are two classes of building sewer permits:

1. For residential and commercial service; and
2. For service to establishments producing industrial wastes.

B. In either case, the owner or owner's agent, is to make application on a special form furnished by the Town. The permit application is to be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent.

C. A permit and inspection fee for a residential or commercial building sewer permit and for an industrial building sewer permit is as set out in Appendix A and paid to the Town at the time the application is filed.

#### **13.1.3.3 Technical Codes, Specifications to Govern Building Sewer Installations.**

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench must all conform to the requirements of the state and Town building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 apply.

#### **13.1.3.4 Technical Specifications.**

##### **13.1.3.4.1 Code Specifications to Govern Connections.**

The connection of the building sewer into the public sewer may only be made by one duly authorized to perform such work within the Town and must conform to the requirements of the state and Town building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9.

##### **13.1.3.4.2 Deviations from Standards.**

Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

##### **13.1.3.4.3 Tightness Required.**

All such connections must be made gastight and watertight.

**13.1.3.5 Costs of Installation—Connection—Owner's liability.**

All costs and expense incident to the installation and connection of a building sewer are to be borne by the owner.

**13.1.3.6 Separate Sewer for Each Building—Exception.**

A separate and independent building sewer must be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

**13.1.3.7 Use of Old Sewers with New Buildings.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

**13.1.3.8 Elevation of Building Sewer.**

Whenever possible, the building sewer is to be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain must be lifted by an approved means and discharged to the building sewer.

**13.1.3.9 Excavations for Building Sewer Installation.**

All excavations for building sewer installation are to be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work must be restored in a manner satisfactory to the Town.

**13.1.3.10 Inspection Prior to Connection—Superintendent to Supervise Connection.**

The applicant for the building sewer permit must notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection is only to be made under the supervision of the Superintendent.

**13.1.3.11 Specific Connections to be Approved.**

No person may make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, without the consent of the Superintendent.

**Article IV. Main Extensions**

**13.1.4.1 Council's Authority to Make Changes, Extensions.**

The Town Council may make such changes and extensions as they deem necessary for the best interests of the public.

**13.1.4.2 Extensions Generally.**

**13.1.4.2.1 Petitions for Extensions.**

Any person and/or persons may petition to the Town Council for extension or extensions they propose, which petition must be voted upon by the council.

**13.1.4.2.2 Authority to Make Assessments for Costs of Extensions.**

The Town Council has the power to make assessments for the costs of any extensions they approve. The council may also establish such rates for entrance and other charges for the use of said sewage system against the owners of the property served by said system or to which such service is available as it may deem necessary to help defray cost of maintaining and operating system.

#### **13.1.4.2.3 Construction by Property Owner, Builder or Developer.**

If the Town does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension if such extension is approved by the Town Council. The person(s) must pay for the entire installation including all expenses incidental thereto. Each building sewer must be installed and inspected as previously required in Article III of this chapter and the inspection fees paid. The design and construction specifications must bear the signed approval of the Superintendent prior to construction.

#### **13.1.4.3 Assessment.**

##### **13.1.4.3.1 Determination of Benefits.**

When the sewer line construction has been completed, the municipal officers shall determine what lots or parcels of land, with or without structures thereon, are benefitted by said sewer line; and, estimate and assess upon said lots or parcels of land and against the record owner or owners thereof or against a person against whom the taxes thereon are assessed, a sum not exceeding the benefit the municipal officers deem fair and equitable towards defraying the expenses of said sewer construction together with any sewage disposal units and appurtenances that may be necessary for the proper operation of said sewer line.

##### **13.1.4.3.2 Definitions.**

For the purposes of this Article, the following definitions apply:

**Benefitted Parcel:** A property which has gained direct access to a sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable or not.

**Assessed Parcel:** A benefitted property included in an adopted Assessment Plan obliging payment of an Assessment Fee.

**Unassessed Parcel:** Those parcels of property that were not benefitted or assessed when sewer main extension assessments were made; and, those parcels that were thereafter found not benefitted by such sewers and therefore not subject to such assessments.

**Dwelling Unit:** A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred fifty (650) square feet of habitable floor space and includes any subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).

**Unit-of-Occupancy:** The category of property use which carries the unit charge as found in §13.1.6.5, Sewer Impact Fee.

**Per-Dwelling-Unit:** The basis of calculation of the number of dwelling units for residences assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

**Per-Unit-of-Occupancy:** The basis of calculation of the number of occupied units for nonresidential structures assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

##### **13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.**

The whole of the assessments may not exceed one-half the cost of the entire project contract price of constructing and completing the sewer line including all necessary appurtenances and sewage disposal units. The municipal officers shall devise and utilize a formula for determining the fair and equitable cost to the owner or owners of land so benefitted.

**13.1.4.3.4 Responsibility for Sewer Lines.**

The municipality is responsible for such sewer lines after construction and thereafter maintain and keep the same in good repair.

**13.1.4.3.5 Record of Location of Sewer Line—Notification of Owner.**

A. The municipal officers shall file with the clerk of the Town the location of the sewer line and sewage disposal units and appurtenances, with a profile description of the same and a statement of the amount assessed upon each lot or parcel of land so assessed and the name of the owner of the lots or parcels of land or person against whom the assessment is made.

B. The clerk of the Town is to record the assessment in a book kept for that purpose and within ten (10) days after filing notice, each person so assessed is to be notified of the assessment by having an authentic copy of the assessment, with an order of notice signed by the clerk of the Town stating the time and place for a hearing upon the subject matter of the assessments, given to each person so assessed or left at their usual place of abode in the Town.

C. If a person has no place of abode in the Town, then the notice may be given or left at the abode of their tenant or lessee, if the person has one in the Town. If the person has no tenant or lessee in the Town, then by posting the notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed at least thirty (30) days before the hearing. The notice may be given by publishing it three weeks successively in any newspaper published in the Town, the first publication to be at least thirty (30) days before the hearing.

D. A return made upon a copy of the notice by any constable in the Town or the production of the paper containing the notice is conclusive evidence that the notice was given, and upon the hearing, the municipal officers have power to revise, increase or diminish any of the assessments, and any revisions, increase or diminution is to be in writing and recorded by the clerk.

**13.1.4.3.6 Farm and Open Space Land Exempt from Assessment.**

A. Land, classified and restricted for use for agricultural, forest/woodland, open space or wildlife habitat purposes as defined by 36, M.R.S. §1102, is exempt from the assessment provided in §13.1.4.3 when no benefits are derived from the common sewer or drain. Owners of such qualified land must notify the municipal officers that their property may qualify for this exception. The municipal officers are to revise the assessments against such land to exempt it from assessment. Any revision of assessment provided by this paragraph is to be in writing and recorded by the clerk.

B. When the use of the land is changed from farmland, the owner must, within sixty (60) days, notify the municipal officers in writing of the change. The municipal officers shall assess this land in an amount equal to the assessment which would have been due but for the provisions of this paragraph. The municipality must notify the owner of the assessment due which the owner must pay within sixty (60) days of notice or as provided by the municipal officers under their authority in 30-A, M.R.S. §4453.

**13.1.4.4 Collection of Assessments and Charges.**

A. All assessments and charges made pursuant to this article are to be certified by the municipal officers and filed with the tax collector for collection. A facsimile of the signatures of the municipal officers imprinted at their direction upon any certification of an assessment or charge under this article has the same validity as their signatures.

B. The tax collector may enter into a written mortgage agreement with the owner(s) of land so assessed and provide the same with a promissory note and installment payment plan for the

amount of the assessment ("Assessment Payment Plan"). This Assessment Payment Plan agreement is to provide for payment of said assessment to the Town over a period not to exceed the shorter of eighteen (18) years, or two years shorter than the Town's bond repayment period for the applicable project, at an interest rate to be determined by the municipal officers. Such agreement is also to specify the method of collection in the event that such payment is in default, and further, the mortgage agreement is to be recorded by the Town in the York County registry of deeds.

C. Owners with household income less than or equal to 50% of the local Area Median Family Income as determined annually by the US Department of Housing and Urban Development and varied by household size, may request deferral of payment of the assessment without penalty or additional interest incurred for the period of eligibility. Should the tax collector find an owner ineligible under those provisions, the tax collector may enter into a written agreement with the owner under the same term and terms pursuant to B, above.

D. Should the tax collector decline to enter into such payment agreement, aggrieved owner(s) may appeal the decision to the Board of Appeals pursuant to Chapter 13.2, Sewer Service Decision Appeals.

E. Payment of the assessment is due in full upon demise of the owner(s); or transfer to any other owner by gift, assignment, devise, sale, or otherwise, except for:

1. Transfers to a spouse or joint tenant, living or surviving, provided the transferee executes a new Mortgage Agreement, Promissory Note and Installment Payment agreement with the Town.
2. Transfers to trusts, providing the trustee executes a new Mortgage Agreement, Promissory Note and Installment Payment agreement with the Town.
3. Such new agreements to be executed for a period not to exceed the final payment date of the original agreement.

F. The municipal officers shall annually file with the tax collector a list of installment payments due the municipality under such written agreements with the owner or owners of land so assessed.

G. If the person so assessed within thirty (30) days after written notice of the total amount of such assessment and charges, or annual installment payment and interest, fails, neglects or refuses to pay such municipality the expense thereby incurred, or fails to enter into a written agreement as provided herein for payment of the same, or fails to pay any installment due under a written agreement so entered, then a special tax in the amount of the total unpaid assessment and charge may be assessed by the municipal assessor upon each and every lot or parcel of land so assessed and buildings upon the same.

H. Such assessment is to be included in the next annual warrant to the tax collector for collection, and collected in the same manner as state, county, and municipal taxes are collected. Interest at a rate of twelve percent (12%) per year on the unpaid portion of assessments and charges due the municipality accrues from the thirtieth day after written notice to the person assessed, and is to be added to and become part of the special tax when committed to the tax collector.

#### **13.1.4.5 Materials.**

The size and kind of pipe is to be determined by the department in accordance with conditions surrounding the extension including the possibility of future extensions or additions, and must conform to all state and local regulations.

## **Article V. Private Sewage Disposal**

### **13.1.5.1 Connection to Private System Required.**

Where a public sanitary sewer is not available under the provisions of Section 13.1.5.1, the building sewer must be connected to a private disposal system complying with the requirements of the Maine State Department of Health and Welfare dealing with septic tank installations.

### **13.1.5.2 Permit Required to Construct System—Application—Permit and Inspection Fees.**

Before commencement of construction of a private sewage disposal system the owner must first obtain a written permit signed by the plumbing inspector. The application for such permit is to be made on a form furnished by the Town, which the applicant is to supplement by any plans, specifications, and other information as is deemed necessary by the plumbing inspector. A permit and inspection fee as set out in Appendix A is to be paid at the time the inspection is filed.

### **13.1.5.3 Effective Date of Permit—Inspections of Construction.**

A permit for a private sewage disposal system does not become effective until the installation is completed to the satisfaction of the plumbing inspector who is allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit is to notify the plumbing inspector when the work is ready for final inspections, and before any underground portions are covered. The inspection is to be made within twenty-four hours of the receipt of notice by the plumbing inspector.

### **13.1.5.4 Operation and Maintenance of Facilities by Owner.**

The owner must operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

### **13.1.5.5 Effect on Additional Requirements of Health Officer.**

No statement contained in this article may be construed to interfere with any additional requirements that may be imposed by the health officer.

### **13.1.5.6 Connection to Public Sewer Required—Cleaning and Filling of Private System.**

When a public sewer becomes available, the building sewer must be connected to said sewer within ninety (90) days after date of official notice. At the time of connection to the public sewer, any private septic tank or cesspool cleaned of sludge and filled with clean bank run gravel or dirt

### **13.1.5.7 Contents from Private Sewage Treatment Facilities.**

#### **13.1.5.7.1 Generally.**

The contents from septic tanks, holding tanks or other approved facilities for private wastewater treatment located on properties within the Town or any other Town with which a duly negotiated contract has been signed by the Town Council for the purpose of wastewater treatment and disposal may be discharged to the wastewater treatment works at a point designated by the Superintendent under the following conditions:

- A. The contractor must be licensed by the State of Maine Department of Environmental Protection and record name, address and license number with the sewer department on forms supplied by the department;
- B. Must submit the owner's name and location of the property from which the tank was pumped prior to discharge;
- C. The contractor must have a sight glass, or other approved means, mounted on the truck tank in clear view, to show the amount of sludge contained within the tank prior to discharge. In the absence of such equipment the tank will be considered to be full and charged accordingly;

D. All discharges are to be made during normal working hours of the sewer department. In emergencies, discharges may be made after normal working hours on approval of the Superintendent. All discharges made after hours are to be charged at the regular rate plus a labor charge as set out in Appendix A;

E. The Superintendent has the right to inspect, test and reject any and all discharges which do not comply with the restrictions found in Section 13.1.2.5 or in any way appears detrimental to the wastewater treatment works; and

F. Facilities used for the purpose of serving industries must submit satisfactory evidence, prior to discharge, that the sludge contains no waste deemed hazardous by the United States Environmental Protection Agency. The Superintendent may request the sludge be analyzed, at the owner's expense, for heavy metals and to ensure compliance with Section 13.1.2.10.

#### **13.1.5.7.2 Rates for Discharge.**

A. Septic tank contents are to be charged at the rate set out in Appendix A.

B. Holding tank contents are to be charged at the rate set out in Appendix A.

C. All discharges containing less than one thousand (1,000) mg/l total suspended solids (0.1 percent) are considered to be holding tanks. All others are considered septic tanks for the purpose of rate charges.

D. All fees are to be paid prior to discharge except when the contractor has made previous arrangements with the sewer department to be billed monthly. If fees are more than sixty (60) days in arrears the contractor's discharge privileges terminate until account is brought up to date.

#### **13.1.5.7.3 Penalties for Violation.**

Any person who willfully falsifies information or in any other way violates this section loses the right of discharge for a period not to exceed ninety (90) days for each offense.

### **Article VI. New Sewer Service Connection Fees**

#### **13.1.6 Requirement.**

##### **13.1.6.1 Benefited and Assessed Properties.**

Main extension projects include properties established by the Town Council as benefited and owners are obliged to pay an assessment fee as ordained above. Except as may be required pursuant to 13.1.6.2 and 13.1.6.3 as a result of changes to a benefited and assessed parcel, fees required by this chapter do not apply to connections to the municipal sewage collection system of any structure existing at the time of adoption of an Assessment Plan for such benefitted and assessed properties.

##### **13.1.6.2 Changes to Benefited and Assessed Properties – Impact Fee.**

An impact fee is assessed when there is a change in the use, character, or size, of any structure on a parcel, or any other condition that results in additional sewage flow from that parcel. Additional sewage flow is any increase in the number of units of occupancy over that existing at the time of adoption of an Assessment Plan resulting in an increase in the wastewater discharge over that existing; or, reasonably estimated to have existed as date of the benefit assessment plan adoption.

##### **13.1.6.3 New Main Entrance Connection.**

Changes in use for benefited properties and all properties not included in a prior main extension Assessment Plan (not benefited or assessed) requiring a new sewer main entrance connection must pay a special sewer entrance connection fee, as reflected in §13.1.6.6.



#### **13.1.6.4 Changes to Unassessed Properties – Impact Fee.**

All properties not included in a prior sewer main extension Assessment Plan (not benefited or assessed) must pay an impact fee as reflected in §13.1.6.5, except any which have an easement agreement granted to the Town in lieu of other compensation.

#### **13.1.6.5 Sewer Impact Fee.**

##### **13.1.6.5.1 Time Payable.**

Sewer impact fees, payable by the property owner pursuant to this section, must be paid prior to the connection of any sewer line to the municipal sewage collection system; or upon the issuance of any plumbing permit for additional plumbing fixtures; or change in use of any property already connected to the municipal sewage collection system.

##### **13.1.6.5.2 Amount Determined.**

The sewer impact fee payable is determined by multiplying the unit charge for the particular category(s) of property use as set forth in §13.1.6.5.3 or 4, by the sewer impact fee set forth in Town Code Appendix A.

##### **13.1.6.5.3 Categories of Use and Unit Charge.**

The following categories of property use carry the unit charge set forth herein to be used in the computation of the sewer impact fee as provided above:

Minimum charge.....	1/2 unit charge
Single-family dwelling or condominium unit.....	1 unit charge
Multifamily dwelling or condominium per unit.....	1 unit charge
3 hotel units (double occupancy).....	1 unit charge
5 motel units (double occupancy).....	1 unit charge
4 boarding house (double occupancy).....	1 unit charge
7 cabins.....	1 unit charge
15 school students (day school).....	1 unit charge
4 school students (boarding school).....	1 unit charge
2 hospital beds (medical).....	1 unit charge
3 nursing home beds.....	1 unit charge
50 theater seats.....	1 unit charge
30 employees.....	1 unit charge
Retail store per 1,500 gross square feet.....	1 unit charge
30 full service restaurant or function room seats.....	1 unit charge
1 laundromat machine.....	1 unit charge
1 automobile service station.....	3 unit charges
Fast food and/or drive-in service restaurant (15 seats).....	1 unit charge
10 yacht or country club members.....	1 unit charge
50 church members.....	1 unit charge
Industrial and manufacturing use.....	Base minimum on domestic use plus any process water usage

Commercial and retail uses:

5 plumbing fixtures added to existing structures  
and connected to wastewater collection system..... 1 unit charge

For any category of use or change in use not specifically set forth above, the enforcing officer determines the total number of unit charges based upon a per unit load of three hundred (300) gallons per day.

#### **13.1.6.5.4 Proportional Factors.**

When the number of units within a category of use does not exactly correspond to that listed in the schedule above, a proportional factor is to be utilized to calculate the total sewer impact fee. For example, to compute the total sewer impact fee for a seven-unit motel the following calculation is used:

$$\begin{aligned} 7 \text{ motel units} &= 1 \text{ Unit charge for 5} + 2/5 \text{ Unit charge for 2} \\ &= \$3,000 + (2/5 \times \$3,000 (\$1,200)) = \$4,200.00 \end{aligned}$$

#### **13.1.6.5.5 Multiple Category Factors.**

If two or more categories of use may apply to a particular proposed use, the sewer impact fee is the higher of the two or more calculations. However, when there are multiple uses within a structure, each such use is subject to a separate sewer impact fee.

#### **13.1.6.5.6 Fee Determination.**

The sewer impact fee due and payable by the property owner is to be calculated and determined by the Code Enforcement Officer

#### **13.1.6.6 Special Sewer Entrance Connection Fee.**

A. A special sewer entrance connection fee as set out in Town Code Appendix A is established on a per-dwelling-unit basis for residences and on a per-unit-of-occupancy basis for nonresidential structures for each new sewer entrance connection to a system main.

B. The entrance connection fee is to be paid in full prior to the issuance of a permit for the new connection.

#### **13.1.6.7 Off-premises Construction Costs.**

All costs of extending sewage lines from the property to be serviced to the municipal sewage collection system are to be assumed solely by the owner or party having an interest in the property to be so serviced. No such construction may commence until there is complete compliance with all provisions of this chapter and all other relevant governmental statutes, rules and regulations. Extension of the sewer lines and pumping station must meet the standards of the Town and capacity must be such as to handle all anticipated sewage flows and allow for flow from all possible future extension or development within immediate drainage area as determined by the Town.

#### **13.1.6.8 Municipal Contracts or Agreements Exempted and Town Property.**

This chapter does not apply to sewage disposal covered by any agreement or contract between the Town and any governmental body, or subdivision thereof, nor does it apply to the treatment of any sewage flow from property owned by the Town.

#### **13.1.6.9 Enforcement.**

This chapter is enforced by the code enforcement officer.

### **Article VII Special Entrance and Impact Fee Fund Accounting**

#### **13.1.7 Special Entrance and Impact Fee Fund.**

A. A Wastewater Treatment Department fund account is established and is the depository for all special sewer entrance connection and impact fees collected under the terms of this chapter. Said fund is to be accounted as a Department designated reserve and used solely and exclusively towards expenses for capital improvements and repair/replacement of capital components of the municipal wastewater treatment system.

B. The proceeds in this fund may be expended in concert with other revenues and planned expenditures or capital improvement funds of the Town, but only for capital improvements to the municipal wastewater treatment system as distinct from expenses for regular operations,

maintenance, and repair. All moneys accumulated in this fund are to be expended by the Town for the specific purposes stated herein within ten (10) years of their collection and deposit therein, or within the amortization period of any project bond created for the same purpose(s).

## **Chapter 13.2 SEWER SERVICE DECISION APPEALS**

### **13.2.1 Arbitration Appeal of Assessment.**

A. Any person not satisfied with the amount of assessment pursuant to §13.1.4.3 may appeal within ten (10) days after a hearing by the municipal officers, pursuant to 30-A, M.R.S. §3443, Arbitration of assessment, to an independent arbitration panel as established by the municipal officers as incorporated in the Assessment Plan adopted for any main extension project.

1. Arbitrators selected. The municipal officers shall nominate six persons who are residents of the municipality. The applicant shall select two of these persons, and these two persons shall select a third person who is a resident of the municipality and who is not one of the six persons nominated by the municipal officers.

2. Arbitration procedure. The three persons selected under subsection 1 shall fix the amount to be paid by the applicant. Within 30 days from the hearing before the municipal officers under 30-A, M.R.S. §3442, the arbitrators shall report their findings to the municipal clerk who shall record them. The arbitrators' report is final and binding on all parties.

B. Appellants are referred to 14 M.R.S. Chapter 706, Uniform Arbitration Act, et seq, for statutory provisions related to such appeals.

### **13.2.2 Unbuildable Parcel Appeals.**

#### **13.2.2.1 Definitions.**

The following definitions apply to this Section only:

**Unbuildable** means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

**Zoning** means any land use and development statute, ordinance, rule, or regulation promulgated by a federal, state, or local government or agency.

#### **13.2.2.2 Right to Unbuildable Parcel Appeal.**

Any person owning a property, included in an adopted Assessment Plan for a sewer main extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:

A. The appellant was the record owner of the assessed property and, excepting spousal or trust inclusions or exclusions, remains so without interruption at time of appeal; and

B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.

#### **13.2.2.3 Initiating an Unbuildable Parcel Appeal.**

A. Unbuildable Parcel Appeals are to be filed in accordance with Town Code Title 16, §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code section's protocols for the Board to address such appeals apply.

B. Filed applications must be accompanied by a written statement from the Code Enforcement Officer and Town Planner regarding whether the involved property is developable as defined in this section.

### **13.2.3 Sewer Service Administrative Decision Appeals.**

- A. Any person filing a permit application for a sewer special entrance connection; or, is determined by the Code Enforcement Officer to be obliged to pay an impact fee, who may be aggrieved by the provisions set forth herein, may file an Administrative Decision appeal to the BoA for a review of the determination.
- B. Any person denied a Payment Plan by the tax collector may file an Administrative Decision appeal to the BoA for such decisions.
- C. Such Administrative Decision appeals are to be filed in accordance with Town Code Title 16, §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code section's protocols for the Board to address such appeals apply.

## **Chapter 13.3 PUBLIC SAFETY IMPACT FEE**

### **13.3.1 Authority.**

In accordance with 30-A, M.R.S. §4354 and paragraph 1.A. (4), and its statutory and constitutional home rule provisions, the Town Council hereby ordains the following ordinance, to be known as a chapter to authorize the assessment of an impact fee for the purposes of providing for Public Safety capital improvements needed as a result of expansion in building related activity as specified herein.

#### **13.3.1.1 Town Exempt.**

The Town is exempt from the payment of an impact fee as provided herein.

### **13.3.2 Definitions and Abbreviations**

**Improvements** means new construction/development/building or renovations to any existing structure that increases that structure, by volume or square footage, or changes in the existing footprint.

**Public Safety** means the maintenance, prevention of, and protection from, conditions that could endanger the safety of the general public, including, but not limited to, fire, police, transportation, and emergency medical services.

**Public Safety Capital Improvements** means new, expanded, or modified Public Safety equipment or facilities as approved in the Town Capital Improvement Plan process.

**Applicant** means a person making application for a building permit under Title 16, Land Use and Development Code zoning ordinance.

### **13.3.3 Purpose and Application.**

The Town Council acknowledges that improvements in the Town leads directly to Public Safety infrastructure and capital equipment requirements made necessary by such development. The purpose of this impact fee is to ensure that improvements in Kittery are supported for those Public Safety requirements with necessary equipment and facilities, and ordain that such improvements must bear a proportional, or reasonably related share, of the cost of Public Safety equipment and facilities through:

- (1) the payment of an impact fee that must be dedicated to paying for such needed Public Safety capital requirements, or
- (2) the direct funding of the Public Safety capital improvements of such needed equipment and facilities.

#### **13.3.3.1 Determination of Impact Fee.**

The amount of the fee provided herein, is reasonably related to the improvement's share of the cost, where the construction cost, as shown in the application for the building permit, amounts to or exceeds the sum of one hundred thousand dollars (\$100,000).

1. The impact fee assessed is calculated by the CEO at the rate of five dollars (\$5) per one thousand dollars (\$1,000) of the cost of improvements in excess of one hundred thousand dollars (\$100,000).
2. The first \$100,000 of the cost of the improvements, as determined herein, is exempted from this impact fee.
3. The following formula is to be used to determine the impact fee: Cost of the improvements less \$100,000 X .005 = Impact Fee.

#### **13.3.3.2 Payment of Impact Fees.**

Prior to the issuance of a building permit, the applicant must pay this Public Safety impact fee as determined above. The impact fee must be paid to the Town for deposit in the dedicated impact fee account established for this purpose at the time of issue of the building permit.

#### **13.3.3.3 Waiver of Impact Fee**

The Town Council by vote, or CEO in consultation with the Town Manager, may waive in whole or in part the payment of an impact fee as determined under this Ordinance if the CEO in consultation with the Town Manager finds that:

1. The applicant, as part of the improvements to be undertaken, is required by the Town, or a state or federal agency, as part of the development/building approval, to make, or pay for, capital improvements that are in the same nature as the capital improvements to be funded by the impact fee as determined under the terms of this Ordinance.
2. The construction/development/building subject to the impact fee involves the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development or the Maine State Housing Authority. If only part of the project is affordable housing, the Town Council, or CEO in consultation with the Town Manager, may waive only that portion of the impact fee assessed hereunder that is attributable to the affordable housing units.

#### **13.3.4 Impact Fee Account.**

All impact fees collected under the provisions of this Ordinance must be segregated and accounted for in a dedicated impact fee account designated as the Public Safety Impact Fee Account:

- A. The impact fee account is established by the Town Manager and must be the depository for all impact fees collected by the code enforcement officer under the terms of this Ordinance.
- B. The impact fee funds must be segregated by the Town from general revenues and must be applied solely and exclusively towards capital improvements for public equipment and facilities for which the impact fees are collected hereunder.
- C. No portion of these funds may be used for routine maintenance or operational activities of the Fire Department relating to Public Safety improvements and expenses.
- D. The proceeds in this account may be expended in concert with other revenues and planned expenditures of capital improvement funds of the Town only for capital costs of equipment and facilities for the Public Safety as authorized by this Ordinance.

### **13.3. 5 Refund of Impact Fee.**

A. If a building permit for which an impact fee has been paid is revoked or allowed to lapse prior to the commencement of the improvements, the payer of the impact fee is entitled to a refund, without interest, of any impact fee paid in conjunction with the issuance of that building permit.

B. A request for refund must be made in writing to the CEO within sixty (60) days of the lapse or revocation of the building permit and the refund if deemed to be allowed hereunder is to be remitted within sixty (60) days after the request is received by the CEO.

### **13.3. 6 Reasonable Schedule.**

Any fees collected that are not spent or obligated by contract for the specified improvements allowed under this Ordinance by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid must be returned to the payer of the impact fee, or successor, heir, or assign, together with interest calculated at the simple interest rate of two percent (2%) per year from the date of the payment of the impact fee.

### **13.3.7 Enforcement.**

This Ordinance is enforced by the CEO or any other person duly authorized by the Town Council.

### **13.3. 8 Review and Revision.**

The Town Council must periodically review the provisions of this Ordinance at least once in every five (5) year period.

A. If the Council finds that the anticipated cost of the Public Safety capital improvements has changed or that the identification of capital improvements subject to this impact fee is no longer appropriate, the Council may make any appropriate amendments to this Ordinance.

B. Any changes adopted as a result of such review must apply to all future development but must not be applied retroactively to projects development/building projects that have already paid an impact fee.

## **Chapter 13.4 EMERGENCY BENEFIT VOLUNTEER PROGRAM**

### **13.4.1 Purpose.**

The purpose of enacting this Ordinance is to provide a safety net to qualifying applicants over the age of 60 years who own or rent their occupying residence and are unable to meet their rent payment or pay their real estate taxes and may be threatened with eviction or the loss of their property, but are over income to qualify for the Town's General Assistance Program or an abatement for property owners under 36 M.R.S. § 841(2). Under the program established by this Ordinance, the Town of Kittery will provide to applicants meeting the criteria established in this Ordinance a volunteer work benefit payment up to the amount of \$750 to be applied towards the payment of the qualifying applicant's past due rent or against the oldest past due real estate taxes owed by the qualifying applicant to the Town.

### **13.4.2 Authority.**

This Ordinance is adopted by the Town under the authority of 30-A M.R.S. § 3001 and 36 M.R.S. § 6231 *et seq.*

#### **13.4.3 Definitions.**

As used in this Ordinance, the following words or terms are defined as follows:

**Homestead:** A homestead is the residential dwelling owned, rented or held in trust for the benefit of the qualifying applicant residing therein and seeking the benefit assistance provided by this Ordinance. The dwelling must be the principal place of residence for the qualifying applicant.

**Qualifying applicant:** A qualifying applicant is a person 60 years of age or older who is determined by the Town Manager, after review of a complete application, to be eligible for the benefit payment under the terms of this Ordinance and who meets all the requirements of this Ordinance.

**Volunteer work position:** The volunteer work position is the work designated as a volunteer position by the Town Manager and undertaken by the qualifying applicant. In establishing the volunteer work position, the Town Manager may consider among other factors any relevant provisions set out in Section 5.6 of the Town's General Assistance Ordinance dealing with the Municipal Work Program.

**Town Manager:** Town Manager includes the manager's designee authorized to assist in carrying out the provisions of this Ordinance.

#### **13.4.4 Criteria for Participation.**

In order to participate in this Benefit Volunteer Program, an applicant must demonstrate to the Town Manager that the applicant meets all of the following:

- A. The applicant must be 60 years of age or older at the time of application.
- B. The applicant must maintain a homestead in the Town and have done so for at least five years immediately prior to the time of the application.
- C. The applicant must show evidence that the applicant has received a refund for the most recent eligible year under the provisions of 36 M.R.S. § 6201 *et seq.*
- D. The applicant has completed a Town of Kittery General Assistance Application resulting in an over qualification to receive General Assistance by no more than 15%.

#### **13.4.5 Determination of Benefit Amount.**

Qualifying applicants eligible to receive up to \$750 benefit against past due rent payments or past due property taxes must have the value of their benefit determined by multiplying the number of hours worked in the designated volunteer position by the prevailing State of Maine minimum wage rate to arrive at the benefit not to exceed \$750.

#### **13.4.6 Program Funding.**

No volunteer benefit work as provided herein may be undertaken by a qualifying applicant unless the Town Manager first certifies that there exists sufficient available monies to fund the volunteer benefit of the qualifying applicant upon completion of the volunteer work. All eligible and approved payments must be made from the Town's available and designated Overlay Account.

#### **13.4.7 Application of Benefit to Rent or Tax Payment.**

The Town Manager must directly apply the total amount of benefit accrued by the applicant to the applicant's past due rent payment or past due Town real estate taxes, whichever is applicable.

#### **13.4.8 Limitations Upon Payments.**

Only one qualifying applicant per household is entitled to receive benefits under this Program each calendar year. The right to file an application under this Ordinance is personal to the applicant but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact.

#### **13.4.9 Manager to Establish Program Procedures.**

To facilitate the intent and implementation of the provisions of this Ordinance, the Town Manager may establish and adopt additional reasonable regulations, procedures, application forms, or other requirements in the implementation of this benefit Program not otherwise inconsistent with any of the express provisions of this Ordinance.

### **CHAPTER 13.5 PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.**

#### **13.5.1 Purpose.**

The establishment of a municipal program to enable owners of qualifying property to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to such properties located in the Town. The Town declares its purpose and the provisions of this Chapter to be in conformity with federal and State laws.

#### **13.5.2 Authority.**

Maine Revised Statutes, Title 35-A, Public Utilities, Part 8: Energy Efficiency, Chapter 99: Property Assessed Clean Energy, known and cited as "the Property Assessed Clean Energy Act" or "the PACE Act.". This Chapter is known and may be cited as "the Town of Kittery Property Assessed Clean Energy (PACE) Ordinance".

#### **13.5.3 Definitions.**

Words and phrases used in this Chapter have their customary meanings, except as specifically defined below; or as defined in 35-A M.R.S. §10153, Definitions, as may be amended from time to time; or as found in Rule 95-648 Efficiency Maine Trust, Chapter 110: Pace Program Regulations: Loan Underwriting Standards, Consumer Disclosure Requirements, Terms and Conditions of Participation and Quality Assurance System, Part II, Section I, Definitions. As used in this Chapter, the following words and phrases have the meanings indicated:

**Energy savings improvement** means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves weatherization, including but not limited to, an energy audit, air sealing, insulating, and other energy efficiency improvements and test out, for residential property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**PACE agreement** means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.



**PACE assessment** means an assessment made against qualifying property to repay a PACE mortgage.

**PACE district** means all that area within the Town's boundaries within which the PACE program is established hereunder.

**PACE loan** means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to the PACE program to fund energy saving improvements.

**PACE mortgage** means a mortgage securing a loan made pursuant to the PACE program to fund energy saving improvements on qualifying property.

**PACE program** means the program established under State statute by the Trust and the Town under which property owners can finance energy savings improvements on qualifying property.

**Qualifying property** means real property located in the Town that participates in the PACE program pursuant to this chapter.

**Renewable energy installation** means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

**Trust** means the Efficiency Maine Trust established in 35-A M.R.S. § 10103 and/or its agent(s), if any.

#### **13.5.4 PACE Program.**

##### **13.5.4.1 Establishment; funding.**

The Town hereby establishes a PACE program allowing owners of qualifying property located in the Town who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are made available from the Trust in the Town by 1) adoption of this PACE Ordinance, 2) an adopted and implemented local public outreach and education plan, 3) entering into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the Town's PACE program, and 4) agreeing to assist and cooperate with the Trust in its administration of the Town's PACE program.

##### **13.5.4.2 Amendment to PACE program.**

In addition, the Town may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Town is responsible for administration of loans made from those other funding sources.

##### **13.5.5 Conformity with the Requirements of the Trust.**

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Town's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Town shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

##### **13.5.6 Program Administration.**

**13.5.6.1 PACE Administration Contract.**

Pursuant to 35-A M.R.S. §10154(2)(A)(2) and (B), the Town will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Town. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- A. the Trust will enter into PACE agreements with owners of qualifying property in the Town's PACE district;
- B. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- C. the Trust, or its agent, will disburse the PACE loan to the property owner;
- D. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owners;
- E. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- G. the Trust or its agent on behalf of the Town, promptly shall record the discharge of a PACE mortgage upon full payment of the PACE loan.
- H. the Trust, or its agent, will be responsible for management of federal grant funds; and
- I. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support Energy Saving Improvements.

**13.5.6.2 Adoption of Education and Outreach Program.**

The Town shall adopt and implement an education and outreach program so that citizens of the Town are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

**13.5.6.3 Assistance and Cooperation.**

The Town will assist and cooperate with the Trust in its administration of the Town's PACE program.

**13.5.6.4 Assessments Not a Tax.**

PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

**13.5.7 Municipal Liability.**

**13.5.7.1 Liability of Municipal Officials.**

Notwithstanding any other provision of law to the contrary, the Town of Kittery, its officers, officials and employees, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**13.5.7.2 Liability of Town.**

Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Section 13.5.6.1 above, a Town has no liability to a property owner for or related to energy savings improvements financed under a PACE program.